

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 909

Homeless Persons

SPONSOR(S): Taylor

TIED BILLS:

IDEN./SIM. BILLS: SB 2680

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Public Safety & Domestic Security Policy Committee	8 Y, 0 N, As CS	Kramer	Kramer
2)	PreK-12 Policy Committee			
3)	Civil Justice & Courts Policy Committee			
4)	Full Appropriations Council on General Government & Health Care			
5)				

SUMMARY ANALYSIS

Currently, section 775.085, F.S. provides that the penalty for any felony or misdemeanor offense must be reclassified if the commission of the offense evidences prejudice based on the race, color, ancestry, ethnicity, religion, sexual orientation, national origin, mental or physical disability or advanced age of the victim. This is commonly known as the "hate crime" statute. HB 909 amends this statute to include offenses evidencing prejudice based on the homeless status of the victim. This will have the effect of increasing the maximum sentence that can be imposed for an offense against a homeless person where the commission of the offense evidences prejudice based on the homeless status of the victim.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Hate Crime Statute: Currently, section 775.085, F.S. provides that the penalty for any felony or misdemeanor offense must be reclassified if the commission of the offense evidences prejudice based on the race, color, ancestry, ethnicity, religion, sexual orientation, national origin, mental or physical disability or advanced age of the victim. This is commonly referred to as a "hate crime" statute. Offenses are reclassified as follows:

- A misdemeanor of the second degree is reclassified to a misdemeanor of the first degree.
- A misdemeanor of the first degree is reclassified to a felony of the third degree.
- A felony of the third degree is reclassified to a felony of the second degree.
- A felony of the second degree is reclassified to a felony of the first degree.

Reclassification of an offense has the effect of increasing the maximum sentence that a judge can impose for the offense. The maximum sentence for a second degree misdemeanor is 60 days in jail; for a first degree misdemeanor is one year in jail; for a third degree felony is five years imprisonment; for a second degree felony is fifteen years imprisonment and for a first degree felony is thirty years imprisonment.¹

There is currently no section of statute that specifically applies to criminal offenses committed against a homeless person.

The bill amends section 775.085, F.S., the "hate crime" statute, to reclassify the felony or misdemeanor degree of a criminal offense if the commission of the offense evidences prejudice based on the *homeless status* of the victim.

The bill provides that the term "homeless status" means the victim is homeless as the term is defined in s. 420.621, F.S. which contains the following definition:

"Homeless" refers to an individual who lacks a fixed, regular, and adequate nighttime residence or an individual who has a primary nighttime residence that is:

¹ s. 775.082, F.S.

- (a) A supervised publicly or privately operated shelter designed to provide temporary living accommodations, including welfare hotels, congregate shelters, and transitional housing for the mentally ill;
 - (b) An institution that provides a temporary residence for individuals intended to be institutionalized; or
 - (c) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.
- The term does not refer to any individual imprisoned or otherwise detained pursuant to state or federal law.

B. SECTION DIRECTORY:

Section 1. Amends s. 775.085, F.S.; relating to evidencing prejudice while committing offenses; reclassification.

Section 2. Provides effective date of October 1, 2009, except as otherwise provided in the act.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

On March 23, 2009, the Criminal Justice Impact Conference reported that the original bill would have an indeterminate prison bed impact on the Department of Corrections. The bill was amended in committee to remove the provision requiring the imposition of a three year minimum mandatory sentence for certain offenses. The conference has not met to consider the prison bed impact of the bill as amended.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill will apparently require all local law enforcement officers to take a telecourse on the plight of homeless persons. The bill also requires law enforcement to collect data on the housing status of victims and suspects which may have a workload impact on all local law enforcement agencies.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill as originally filed would have had a fiscal impact on the Florida Department of Law Enforcement. It is not expected that the committee substitute will have any fiscal impact on the department but these comments will be updated when further information is received from the department.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

N/A

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

The Public Safety & Domestic Security Committee adopted a strike-all amendment which removed several provisions of the original bill. The bill as originally filed would have:

- Created a new section of statute which would have required the imposition of a three-year minimum mandatory sentence upon a person who is convicted of aggravated assault or aggravated battery upon a homeless person.
- Required FDLE to develop a telecourse on the plight of homeless persons and required every state, local and correctional law enforcement agency to certify that each of its officers had taken the course.
- Required that housing status be included in crime reports.
- Required schools to teach the subject of homelessness.
- Required the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a study.